

APPROVED: 7/21/14
MINUTES OF THE
CONSOLIDATED ZONING BOARD OF APPEALS
OF THE
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS
MARCH 17, 2014

A regular meeting of the Zoning Board of Appeals was held in the Town Hall, Highland Falls, New York, on Monday, March 17, 2014, at 7:00 P. M.

THERE WERE PRESENT:

Board Members:

Jack Jannarone, Deputy Chairman
Tim Donnery
Ray Devereaux
Tony Galu

Absent

Tim Doherty, Chairman

Alyse Terhune, Attorney (Jacobowitz & Gubits, LLP)

ALSO PRESENT: Jim Titolo, David Getz (Lehman & Getz), Jack Gafford (Old Guard Hotel), Ken Syvertsen (Syvertsen, Rigoso, Architects), David Brzywczy, Jason D’Onofrio, Joe D’Onofrio, June Gunza, James Rayi, Constantino G. Fatsis, Daniel Capece, Donna Donaldson, Vincent Donaldson, Philip Lucrezia (Attorney for Harold Davis), Rakhil Patel, D. Patel, David Pagano, and Jack McCarthy.

MR. JANNARONE: Please rise for the Pledge to the Flag. I will open the March 17, 2014 meeting of the Consolidated Zoning Board of Appeals of the Town of Highlands. Members present are Tim Donnery, Ray Devereaux, Tony Galu, and Jack Jannarone, with Tim Doherty absent.

First we have the Minutes for January 22, 2014. Does anyone have any changes or corrections?

MR. DEVEREAUX: Noted changes and corrections to the January Minutes. I had asked that we bring in the Engineer to talk about the

retaining walls, and I don't know whether that has been done by John or not, and he is not here tonight.

MR. JANNARONE: I don't know the answer to that. Anything else for the January Minutes?

A motion was made to adopt the Minutes for January 22, 2014, as amended.

Motion: Mr. Devereaux Seconded: Mr. Donnery Approved

MR. JANNARONE: Turning to February. Does anyone have anything for February?

MR. DEVEREAUX: I would have to ask if the lots have been assembled yet?

MR. TITOLO: The final lot: we haven't heard from the County as of yet.

MR. DEVEREAUX: Four lots.

MR. TITOLO: We are going to assemble them all into one (1) lot.

MR. JANNARONE: Noted changes and corrections to the February Minutes. Any other changes to the February Minutes?

A motion was made to adopt the Minutes for February 18, 2014, as amended.

Motion: Mr. Devereaux Seconded: Mr. Galu Approved

MR. JANNARONE: Alyse, would you tell us what has transpired as far as the SEQRA.

MS. TERHUNE: You may recall that when we first received the application, it stated that the size of the building was less than 100,000 square feet. I think it was 980,000 square feet so it would have been an Unlisted Action, as we discussed unless you found a significant impact which would bump it up to a Type I. However, since that time, the application has been revised and the building is actually, and I think the latest plans reflect this, 108,000 square feet.

So, under the SEQRA Regulations it is a Type I Action. Now that it is a Type I Action and you are an involved agency with the Planning Board, either the ZBA or the Planning Board would Declare Lead Agency or Notice of Intent to be Lead Agency. The Planning Board, I believe, intends to do that next week. What that means for the ZBA, unless you want to undertake that, is that Notice will go out and all the involved agencies will have 30 days to either say “nothing” or “that’s fine,” or “no, we want to be Lead Agency,” which would set up a conflict.

Assuming, however, that this Board decides that the Planning Board is better suited to be Lead Agency, then what will happen is you will not be able to make your decision to grant or not grant the variances or grant with conditions until after the Planning Board closes their SEQRA determination. So, that means that what I would recommend is, you open the Public Hearing, you listen to the public comments, and adjourn it until such time as there are no public comments left, or at least until the Planning Board has determined to be Lead Agency. Are there any questions about that so far?

MR. GALU: I don’t see why we can’t go on with the variances. We are talking mostly retaining walls.

MR. JANNARONE: We can’t. We can talk about it but we can’t vote on it tonight.

MS. TERHUNE: Right and also, we have to re-submit and, I have indicated this to the Applicant, they are aware of this, we need to re-submit to the County because the plans that the County reviewed on our prior submission have now changed. So to protect the Applicant, and the Board, of course, and the Village and the Town we need to re-submit that 239. When we get the final plans, we will do that again. Also, I don’t believe there is anything in the record that the County has actually gotten back to us.

MR. JANNARONE: The County has not officially gotten back to us, that I am aware, so we couldn’t vote anyway.

MS. TERHUNE: I did email the County and told them of the situation, that it is changed to a Type I, and that we will be re-submitting. I asked the County if they wanted two separate submissions, one from the Planning Board and one from the ZBA or could they be submitted together. They want separate ones, so we have to re-submit to the County. As an involved agency, it is your responsibility to indicate if you have any questions regarding environmental

review that you would like to pass on to the Planning Board so that when they go through their evaluation, they can take your concerns into consideration. So, I would advise the Board to think through that, perhaps query the Applicant Review.

MR. JANNARONE: At this point we will open the Public Hearing.

At 7:10 P. M. the Public Hearing was opened.

MR. JANNARONE: We have Notice of Publication from the Applicant in the Village paper and Affidavit of Posting and Mailing.

MS. TERHUNE: Do we have an Affidavit of Publication from the newspaper?

MR. TITOLO: The affidavit was from John Hager for the newspaper. It may be attached.

MS. TERHUNE: I don't see anything from John, but we will look into that. We are likely not going to close the public hearing but since it was noticed and people have shown up, we definitely will open it.

MR. JANNARONE: The Public Hearing is opened. The Applicant will speak at this point. Is everyone signed in?

MR. JANNARONE: Mr. Titolo and Mr. Gafford, please hold up your right hands. Do you solemnly swear that the information provided herein to be accurate and truthful to the best of your ability?

MR. GAFFORD: I do.

MR. TITOLO: I do. First, I would like to introduce Ken Syvertsen and David Getz, the Architect and Engineer for the project. We are here to present the proposed development of the Old Guard Hotel on the existing site of the Pointer's Echo Motel. The new hotel consists of 120 rooms and as Counsel identified is 108,000 square feet. It will include a four-star restaurant, conference rooms, and fitness center.

We are here to request relief on specific Village Codes. The first is a height variance from 35 feet to 48 feet. The second is the extension of the B-2 Zone into the R-3 Zone. The property is in one ownership and the ZBA has the right to

extend the use. The purpose of the use extension is to simply provide parking on the R-3 Zone. In this case, the R-3 Zone can never be built on because of the slope.

MR. JANNARONE: Do you want to show this so that the public can see what you are talking about?

MR. TITOLO: I can do that. Illustration: Relief of the setback from 30 feet to 20 feet which is from the R-3 Zone which bisects the property. This is the R-3 Zone; this is Mearns Avenue; this is Route 9W. The R-3 Zone extends right through the middle of the property, so we are requesting the extension of the B-2 Zone parking into the R-3 Zone.

There is a required setback of 30 feet from this R-3 Zone for the property and based on the layout of the property, the corner of this new proposed hotel encroaches on the setback by approximately 10 feet; from 10 feet to 0 basically until we get to the 30 feet.

Then a relief on the height of the walls: This is the wrong detail but shows the specific walls. This is one wall on the north side, south side, and two walls on the east side of the property and there is a variance required for the height of the walls. The “A” wall which requires no variances, the “B” wall which requires a four foot variance, the “C” wall requires a 5.75 foot variance, and the “D” wall requires no variance.

MR. JANNARONE: I just want to make clear that you have asked for enough variance on the height of the walls based on our conversations of last month.

MR. GAFFORD: That is correct.

MR. JANNARONE: I just want to be sure that you don’t short yourself; my same point as last month.

MR. TITOLO: We are proposing a six foot stockade fence for screening. We have spoken to the northern property owner and he is more inclined to accept a stockade fence. We are proposing a chain link fence with slats in it because we feel it is more secure. We are hoping that the chain link fence with the slats and the existing vegetation along this bank, which will not be removed, will provide enough screening. At this point, I would like Jack Gafford to run a quick summary of the economic benefit of this hotel to this community.

MR. GAFFORD: I am going to pass out the handout sheet that those in the audience may take if they want. Make sure everyone gets one. This is the fun information to present because it is about economic impact. Our project is probably the largest project that has been done in Highland Falls, certainly in many years. I am not the town historian or village historian. I did a ten-year summary of what the hotel would produce to the county, the town, and the village. The total economic activity is about \$101,000,000 a year, about \$10 million a year. It is made up these categories: Salaries/Wages, Taxes, additional purchases by the guests that show up, what we pay for operations, food supplies, office supplies, utilities, and then there is some additional sales tax that would be generated when the guests would purchase something. This is quite a large number. The taxes especially are about \$15 million over ten years. About a million and a half a year, made up of sales tax, property tax, hotel occupancy tax, and a little bit of mortgage tax when we close the financial transaction.

Construction is planned for one year and the salary and wages are based on full-time positions. We think there will be a total of about 200 people involved from time to time in this construction with all the trades, and about 60 full-time job equivalents. When we have the operation of the hotel in its steady state, we think we will have about 90 people involved in about 60 full-time equivalents. Our aim is to get as many people involved in this town and this village as we can. There is lots of talent here. We support the local economy and we think it is important to do so, and you can have people that live here have the ability to get some really outstanding jobs.

If you go to the second sheet, I have made a summary of some of the impacts. Schools are one that is looked at very hard. We will be paying half of our property taxes to the school and I doubt that we will, in our business, add any students to the school. We are not new residents bringing families. We are operating with the population right here. Everyone that we hire will be local, except maybe one person, and that's me. I am moving here without any kids.

Emergency response, water, and sewer: Our project is going to be very environmentally conscious. We will probably use less water than the average hotel. We will use less sewer and less electricity. We will have lots of applications of solar energy to trade off against the Orange & Rockland energy. Very little gas; mostly electric. We are going to cut down on the garbage; we will recycle as much as we can. We have a very environmentally conscious project because that is the history that the members of our team have had in

developing in other places. In terms of pollution, if you look at the effect of changing your energy from the standard electric energy to replacing it with solar or exchanging it for solar, you even save on pollution. Our parking lots are going to have a high percentage of permeable pavers as opposed to asphalt. That makes a difference. I think that when we have this constructed, we will have a very environmentally sensitive project and we will do our best to have minimized impacts. We can't say we will have no impacts, but we will certainly have a minimal one.

We would like to have a program of hiring high school students during the summer to do a lot of the odd jobs that are there. We want to hire students that are education bound, not necessarily to a four-year school, but to Orange County, to trade school, culinary school, and offer them a very interesting part-time job. That is where the bulk of the force will come from and be trained. It is oriented, again, to the community. For seniors we will develop some really good programs, some educational programs that will help the senior community.

Finally, where are we getting all our business? That is really the key issue. We are not here to take business away from restaurants that are here or necessarily the Hotel Thayer. We are here to put a hotel in Highland Falls that will generate money for the village, town and county. We are going to bring in new market segments and increase the tourism to our hotel. There are lots of events that we can generate here throughout the year that don't rely on the West Point busy times: Golf packages, skiing packages, corporate retreats. They will all bring business to Highland Falls. While this is not the purview of the Zoning Board, it is important that you understand what we are trying to accomplish.

MR. JANNARONE: Does anyone in the audience want to speak or ask questions? If so, please come up and state your name.

CONSTANTINE FATSIS, Esq., 6 Firehouse Lane, Highland Falls. I would like to begin by first stating that I had an opportunity to speak with Mr. Titolo prior to this meeting tonight and we did address some of my concerns. Probably the easiest concern is Number 5, which is the stockade fence. Mr. Titolo did agree wholeheartedly that there wouldn't be a problem with their organization putting a stockade type fence in between the northerly line of the property and the southerly line of the property. So that is not a concern that has to be addressed tonight. I won't address that any further.

What does concern me and the concerns that I did express to Mr. Titolo, and if I can, with the permission of the Board, approach the overview here, is the second request, which is the extension of the B-2 Zone into the R-3 Zone to support parking requirements. First things first, I have no real objections to the overall idea of the hotel and am certainly the last person who wants to stand in the way of anything that develops with this property. I believe it is a good idea and I believe overall that it helps the community. In the interest of disclosure, my mother owns the northerly premises. That is really why I am here. (He indicated where this property is on the map).

In relation to Mearns Avenue, on the easterly portion of the premises, for about a year or so, I dealt with an issue with allegations that there was water right underneath this property which is not reflected on this map. There is about a 36 or 39 inch, I don't remember exactly, drainage pipe that goes underneath the southerly portion of my mother's property that connects from Route 9W on the other side. Basically, it waters that channel down from the Government's property off of Route 9W careening through this pipeline into what has become a culvert and then drains into the draining system on Mearns Avenue which is represented here as drainage culvert.

In speaking with Jimmy the other day, I asked him a few more questions, one of them relating to the proposed snow storage location on every piece of property. I know as a former member of the Planning Board, one of our concerns was always "where is the snow going to go once it is plowed?" I understand from what Mr. Gafford has just expressed and what Jimmy told me himself, that many of these parking spots are going to be pavers that will basically afford some level of permeability for the rainwater. There will be a much larger portion than what is actually here at the hotel now that is going to be paved. It will engage the whole issue of drainage. I am not exactly sure where they are on this map but Mr. Titolo explained to me that there are three (3) drainage collection points of pipe lines that will feed water that is collected throughout this property into the culvert over here at the end of my mother's property on Mearns Avenue. So my mother's property here has this portion here and part of it that goes down to Mearns Avenue. So in providing the B-2 into the R-3 Zone at one point this was all R-3 Zoning.

A few years back, the Village, according to the Master Plan, sought to designate this B-2 so as to provide for the opportunity instead of having a non-conforming use, which was the Pointer's Echo Motel, to eventually allow for this exact type of commercial activity. The side effect, was at one point realized, that the

Legislation, as enacted, created B-2 even on the Mearns Avenue portion. It was determined that that wasn't something the Village intended to have, commercial properties built onto the R-3 portion on Mearns Avenue. That was rectified with a proposal to split it essentially right down the middle, give or take R-3 and B-2. Now, in extending the B-2 into the R-3, the problem that I would like to see dealt with in relation to the Zoning Board and the Planning Board, is there will be, no matter how you look at it, more non-permeable surface area on this upper portion than was there before, regardless of the amount of permeable pavers that are used.

The understanding is, somewhere here, and Jimmy showed me, but I don't remember exactly where they are. (He and Mr. Titolo referenced the drawings). There are three (3) points that show where water will be collected. I am not exactly sure of what type of water collection is proposed, and then it will be piped down to a point on Mearns Avenue, and then fed northerly into the culvert.

The reason this poses an issue is that for about a year or so, I fought a constant battle with the Building Department because of the allegation that because of this drain and culvert on my mother's property, it was causing unsafe conditions on Mearns Avenue south from the culvert down Mearns Avenue. Actually this pipe goes underneath from the culvert down through another individual's house, Mr. McCarthy. He has a garage on his premises where the brook extends underneath. You pick up a metal gate and you see a cascade of water that comes down from the brook. I will call it a brook; it really probably is not a brook. Down here this is the culvert. For example, through certain individuals a lot of pressure was put forth to try to designate this as an issue that my mother had to deal with. Until one point, the Village Engineer finally came up there and determined that the water problem was not from this brook and the culvert, but was instead actually stemming from a hill on this parcel right here, which is currently identified as 111-115.1. I have a copy of the email that was sent and will be more than happy to share it with the Zoning Board.

What was happening, in a winter that was probably not as bad as this year, extreme icing conditions were taking place on Mearns Avenue. And as Jimmy and I spoke the other day, this is something that when Mearns Avenue was repaved and some drainage was put in, this area was completely neglected, this southerly portion, well let's say the area that is right in front, and most of the properties on Mearns Avenue facing northward, in terms of actual good drainage.

Once this project goes forward, if everything goes smoothly, we are going to have more surface water that is going to collect and make it into these drain pipes. It is all going to merge into this culvert here because there is no drainage anywhere on the entire westerly side of Mearns Avenue all the way from the very beginning near Eagle Valley, all the way down to where it reaches Berry Hill. There is no drainage. Already what happens now is this water cascades, it has nowhere to go, and it trickles down the side of the steep mountain onto Mearns Avenue. There is a little bit of a gulley that is present in the pavement, but that is it. So, this water that cannot naturally drain, no matter what drainage points are put forward, cannot naturally drain, it is going to collect into this culvert. Now that may ease part of the problem here. But what problem is it going to cause in the culvert? That's my concern.

Because as of now, you have a neighbor who is very adamant, in fact the former Mayor is here, and he will remember, would come to the Village Board meetings and complain constantly that the water was too much, it is causing problems, and what is that property owner going to do? We know that a dominant property owner owes no real duty to the subservient property owner unless they do something that changes the natural course or flow of water.

My concern becomes: with the snow area, which is somewhere over here, is going to naturally melt at some point, and this area is topographically higher than the property that is right adjoining next to it, which is my mother's property, where is that snow going to go? That snow, at some point, is going to melt and it is going to inundate an area where the Village Engineer already determined the actual water that is causing these problems on Mearns Avenue is from this property and not this property. The allegation that breaks in the culvert were causing it, it would require the water to be somewhat magical and that it should go up and come back down. That is one concern that could probably be remedied by maybe moving the snow bank to the other side of the property. I don't know if that is possible but I would imagine that it shouldn't cause any additional issue on this side. But the water points of collection and then forcing it into the culvert is something that does cause me some hesitation as to what effects it will have over here and if it will also careen backwards and cause any problems. The gulley is literally less than maybe four to five inches, like a U-type shape at the end of the road with blacktop. If any debris gets in the way of this little gulley, could any of that water, we don't know exactly what water without some sort of an environmental or water study, determine how much water is coming down here. We don't really know after a good storm or after a good winter like we had this year, we don't know how much water is going to come down or how much

water is going to permeate onto Mearns Avenue, potentially causing hazardous conditions in as well as the issue of the culvert and the brook. At any point in time, even during dry summer season, you are going to see a lot of water coming down from the West Point's portion on the westerly side of Route 9W. Even in 95/100 degree weather you are going to see a good amount of water coming down. Now we are going to take all this water from this area that is not permeable any more and channel it into that culvert.

Again, in parting, my concern is not to thwart this project, but simply to get the answers that are reasonable and rational in advance.

MR. DONNERY: In all fairness, we are the ZBA, we are here for a few other concerns about variances. You have a very good point, but that must be brought up with the Planning Board.

MR. FATSIS: The Zoning Board also maintains the ability to look into this and can also issue variances. With all due respect, I am not asking you to be the only agency that looks in to this issue, because the Planning Board would deal with that. But the ZBA also retains the authority in determining whether or not to give a variance to take these factors into consideration. For example, the Zoning Board could turn around and say to the Planning Board, this is our concern and we would like this to be dealt with on the Planning Board level. So I am not throwing it all on the Zoning Board but I think it would be rather inappropriate for me not to address the issue before the Zoning Board and then allow the Zoning Board to make the appropriate decision that you as a Board see fit to make.

MR. DONNERY: I understood that you and Jimmy talked so I figured that would give him more time to address his plans with his engineers.

MR. FATSIS: That's what I hope for. I would rather work with Jimmy ahead of time and try to get this - but I still have to voice my opinion at the hearing level just to make sure for the record that there is an issue that has been raised.

MR. DONNERY: Alyse, would you agree with that?

MS. TERHUNE: I think that, as we discussed earlier, to the extent that you have concerns that you want to either review yourself with your engineer or ask the Planning Board to review with their engineer. I think that it is appropriate to indicate to the Planning Board that you have these concerns. If one of them is

drainage, I know that is something the Planning Board is looking at. But that does not mean that you can't, as an involved agency, say we understand there are drainage issues there and we want to make sure that that's an area that you address because we're concerned.

MR. JANNARONE: Jim, do you have a response?

MR. TITOLO: Yes. I would like to comment on a couple of things and then I will ask David our Engineer to speak. With regard to the fence, there is no issue. With regard to the relocation of the snow area, there is no issue.

I would like to disagree with Mr. Fatsis to some extent. There is no way that the water that sheds off of the property represents 100% of the concern on Mearns Avenue. There is an existing head wall there. The wall was not built properly in the beginning. Water rushes down Mr. Fatsis's property. Some of that water migrates in from our property in and collects and runs into that head wall. We have discussed this with John Hager, the Building Inspector. We are probably going to end up rebuilding that head wall. We are going to ask David to look at this. What we would also like to do is extend this topography so that we can really understand where that valley is that carries that water down that slope. The only thing is, and I would like to make clear, that there is no way that this property sheds 100% of the water into that culvert.

MR. FATSIS: No, without a doubt that is not the argument here. I will give you a copy of this email. It is the Village Engineer, not myself, who determined that the water that was causing this particular icing situation on Mearns was coming from this property and not this property. Is it all, no, because there is no drainage anywhere to be found across the way on Mearns Avenue. I am sure these four parcels here contribute to this and down the line. It is a concern, and I am bringing it to the attention of the Board.

MR. GAFFORD: Jimmy and I would like to commit to continue to work with Mr. Fatsis to find an alternative to bringing our storm drain down to that point.

MR. TITOLO: And in the event that we can't, we are prepared to rebuild that head wall anyway and direct some of that drainage. Mr. Fatsis has got me curious on this and I think that I know the location that he is talking about. It was probably a condition that was, because of the icing, extended beyond the gully drain that is provided. Now would be a nice time to look at this and we will do that.

MR. DEVEREAUX: Jim, it appears that you have a perfect test case this year. Obviously, someone should be watching that to see what is happening on the ground.

MR. FATSIS: The last comment relates to the 35 foot to 48 foot variance in terms of the height of the structure. I have no opposition to that as long as the Board realizes that the premises directly to the south and to the north may very well ask for that type of variance in the future. It would probably be more likely than not a good idea, if it is granted here, to have that thought in mind in the future for some sort of conformity in terms of potential future growth in that area. There are no objections on my part. I just want to point out that, if the Board looks to give that at one point to this parcel, they may want to remember that it may be asked for in the future.

MR. DEVEREAUX: Essentially, every project is taken as a case by case basis. So you can't say that you have a blueprint and that is going to work for the next project.

MR. FATSIS: You are absolutely right. I am just bringing it to the attention of the Board. I fully understand. I appreciate the time.

MR. JANNARONE: Thank you, Mr. Fatsis. Would you like to submit anything in writing to the Board?

MR. FATSIS: I can do that. Do you have a timeline when you would like that in?

MS. TERHUNE: I think the Board is going to keep the Public Hearing open so between now and the next ZBA meeting.

MR. FATSIS: I will do that and I will also submit a copy of the email that I was referring to from the Village Engineer.

MR. JANNARONE: Thank you very much. Mr. Donaldson.

VINCENT DONALDSON, Esq., 7 Oak Avenue, Highland Falls. Now that I understand that it is not zoning, I am worried about drainage. I live at 7 Oak Avenue, which if you go down to Mearns, referring to the drawing, probably goes down to around here.

When they did all the drainage work a few years back, of course we had two dry years afterwards so you never saw it, but once we had wet years, I had four times the water running through my yard than I did before they did all the Mearns Avenue drainage work. I think my neighbors do, too. There is water coming out all over. It's coming out through the ledges. Like I told the engineers, that little culvert that they made on the side of Mearns doesn't do a damn thing because the water goes down under the road. A lot of it comes off the hill and a lot of it comes down from the brook because that water runs over the brook. Also, down on Oak, that brook can't handle the water it's got now across where it goes under Oak. If you ever drive Oak on an icy day, half of it's covered with ice, just up past School Street you come around the turn and it is half ice across there. That's water popping out of that brook and running down the road. It couldn't take any more water. Something has to be done there.

My concern now, and even hearing him moving the snow collection which was on the north end, it could still be a problem. Down to the south end you are putting it closer. There would be more of that water seeping down that hill coming under the road through my yard, through my house. I have a hard enough time. I used to just have to deal with one point of water coming through. Now I've got it coming through the whole yard. I can see it coming down. It comes down my driveway it comes down all over. It is all coming out through here.

MR. TITOLO: (Pointing to the drawing, he indicated the original snow area). Perhaps it could be divided in half, spread out the storage area. We will talk to David. I understand your concern.

MR. DONALDSON: I would love it. I don't care if you built the Twin Towers up there as long as you can deal with that water situation. It is bad enough now. I just can't see how, unless something is done to get this water out of here, some way, something new because what's there can't handle it. I don't think anything down below this can handle the water. It's got to be moved some how, somewhere.

MR. DONNERY: Once again, like I said, we are here with the zoning and the variances. So, we can make a note for the Planning Board. Our Attorney, Alyse, is also with the Planning Board so she can transfer everything here.

MR. DONALDSON: I would like to know when the Planning Board meeting is for this. I am for the project. I think it is wonderful, our village really needs it.

MR. DONNERY: In all fairness to Mr. Titolo and everyone here, they are here to address our problems with their variance and it would be a better plan to handle the water issues and other issues that other people have at the Planning Board meeting, I would say, right Jim?

MR. TITOLO: There is a Planning Board meeting on March 27, and I have written down Mr. Donaldson's concerns. I just wanted to say, for the record, that if there is a systemic problem on Mearns Avenue relating to drainage, we will do our best to try to help, but it shouldn't be the responsibility of this developer to rebuild Mearns Avenue and fix a problem that has been there for 20 years and has gotten worse after recent modifications.

MR. DONALDSON: But if what you are doing is making it even worse?

MR. TITOLO: I would like David, our Engineer, to identify the fact that, by law, we cannot shed more water than already exists.

MR. GETZ: That's true for peak flows. I am David Getz, from Lehman & Getz Engineering. We prepared the site plans. Under the State DEC's regulations, we have three obligations with the runoff. We have to detain water so that we don't increase peak flows from the site. To do that on this property, we propose an underground pipe system. Six foot diameter pipes, hundreds of feet of them that are tied together so that all the parking areas and all the roof areas will drain into that underground system. The outlet structure from that system has a way to restrict the flow so that the peak flow coming out is less than other existing conditions.

MR. DONALDSON: Where is it letting out to?

MR. GETZ: Into the pipe system that you have been discussing when it comes down the hill.

MR. DONALDSON: From there it's going over to the brook.

MR. GETZ: Correct. So we have to detain water to meet those regulations. We have to treat the water for storm water quality. To do that we have a couple of measures in mind: Using the porous pavers that has been mentioned. Use those pavers along some parking areas. Beneath the pavers is a bed of stone that is sized to provide water quality treatment to filter.

MR. DONNERY: Filter stone, right?

MR. GETZ: Yes. To talk briefly about the pavers: The pavers themselves are not porous, it is a permeable paver but they are made with a built in gap so there is a space all around the joints.

MR. DONNERY: 6 x 8 pavers, roughly right?

MR. GETZ: Yes. The product that we specified is called pave drainage. That is one means of treating the runoff and we also have some precast concrete structures with filters/cartridges in them, kind of like an oil filter, the water passes through these cartridges. They are all measures approved by the DEC and sized based upon the drainage areas that drain to those particular areas. Before the water is released it is treated, especially the first flush, where most of the pollutants wash off.

The third requirement that we have to meet is called runoff reduction. A portion of the rain water that falls on the site on these areas must be infiltrated into the ground. That is a relatively new requirement from the 2010 permit from DEC. So that in addition to holding it back and cleaning it up, we must now return some of the water back in to the ground. So we will use the porous pavers system; that is our means of doing that on this site.

We have prepared a drainage report that has been submitted to the Planning Board and is being reviewed right now by the Village Engineer. We do calculations for how much flow we are proposing to send in that pipe system. The engineers are currently reviewing that report.

MR. TITOLO: We will carry this concern to the Planning Board also, and will bring it up on the 27th.

MR. JANNARONE: Mr. Devereaux?

MR. DEVEREAUX: Jim, I don't know what proportion of the water runoff comes from West Point Lands across Route 9W, and I suspect this has been discussed with them previously, but they are up higher, and maybe something needs to be done on the other side of the street in order to basin some of that water some way somehow.

MR. TITOLO: Good thought.

MR. GETZ: That would be true whether this project is being proposed or not, right?

MR. JANNARONE: Right. Anyone else who would like to comment?

MR. DAVE TONNISON, 11 Hemlock Street, Fort Montgomery. Getting back to the reason for your meeting, the Town of Highlands and the Village of Highland Falls Master Plan is basically the same and the ordinances are about the same. The height requirement is 35 feet for both. Over the years, the Town has found that the 35 feet was not a realistic figure. A two-story Victorian style house would violate that and the Town increased the height maximum to 45 feet. I don't think a 48 foot height is unreasonable. I think a 35 foot restriction is which is why the Town changed their ordinance.

My only question is, and this is a Planning Board thing, too, the Village of Highland Falls does not have an aerial ladder piece of equipment. They depend on West Point and Fort Montgomery for an aerial ladder. I don't know whether those things have been considered but it something you might want to think about.

MR. DONNERY: Being that you are here, and your reputation in the Fire Department for so long, that is one of my concerns. John was supposed to talk with someone in the Fire Department, and I believe it was determined to be okay with the fire department.

MR. TONNISON: That is fine. The Village F. D. not the Fort Montgomery F. D. would be responsible. Normally, that is one of the requirements in the planning process is that you would have the available facilities to handle it. If they believe they have the facilities, then that is fine.

MR. TITOLO: Mr. Donnery, may I just comment on that? I appreciate that. We have presented the drawings and the details of the truck to the fire department. They have commented. They have come back to us with a detailed letter on locations of hydrants and stand pipe in the staircase. We are now waiting for the Village Planning Board to provide us with the details of the ladder truck from West Point which would be the first responder. We think that we have it right because we have already identified the ladder truck as far as make and model. We want to confirm that with the Village Planning Board. Again, we will address that on the 27th.

MR. DONNERY: One of the questions is where is the village and the town on Route 9W? I thought it was the Town F. D. Maybe I was wrong.

MR. TONNISON: You mean as far as whose responsibility is it?

MR. DONNERY: Yes.

MR. TONNISON: In the questionable annexation that occurred where an area of the Town was moved into the Village of Highland Falls, the area from Nicole's to approximately the water plant on Mountain Avenue, the Village property line was amended to be to the west side of the road not the east side. That part of Route 9W and the area you are talking about is within the Village limits.

MR. DONNERY: Okay.

MR. JANNARONE: An unintended consequence. I had asked that someone from the fire department come to the meeting, but obviously, they are not here.

MR. DONNERY: He's the closest we've got. He's elected.

MR. TITOLO: Mrs. Gunza is here and Mr. D'Onofrio is here.

MR. JOE D'ONOFRIO: Let me just mention, the West Point Fire Department. The dimensions are coming from them. That ladder truck is out of service at the moment. I have an email here from the Chief. As Mr. Titolo said, they are working with West Point on the dimensions and the turnaround radius. They already know that the ladder is fine. It is the other part of the truck, the length and the width that they are conferring with West Point on.

MR. JANNARONE: Is that truck at the Stony Lonesome fire station or the other one?

MR. D'ONOFRIO: I am going to guess and just say Stony Lonesome. I will tell you that I don't know if it is a written agreement or just a handshake agreement, the thing is you have a couple of chiefs over here that happen to be professional fire fighters at West Point. When something happens here, more than likely West Point is here before we are because we are volunteers. We have to put our clothes on to get there; they are already dressed.

MRS. GUNZA: West Point will come if they are asked for mutual aid or if they are in the pre-plan that is filed with the 911 Center. The responsibility still lies with the Village of Highland Falls.

MR. JANNARONE: Of course.

D'ONOFRIO: Sure. She just said something very important. If there is a pre-plan with the Orange County folks, they automatically roll, even if it is nothing, and most times it isn't anything, and they will go. That's the good part.

MR. JANNARONE: I don't think you can get anywhere in the village farther from the fire station than that property. So I think West Point would probably be closer. That is the kind of thing that would have to be arranged I think ahead of time.

MR. GALU: That's the closest one.

MR. TONNESON: Just to note the Fort Montgomery ladder truck is a 65 foot ladder and this building is 48 feet, so even with West Point's ladder truck being out of service, the Fort Montgomery ladder truck is adequate.

MR. DONNERY: As far as mileage is concerned, what are we talking about?

MR. TONNESON: 3 miles.

MR. D'ONOFRIO: Tim, it's 5 ½ miles. I think this statistic is important. I think it is more true than not. It's 5 ½ miles from the West Point F. D. to the Fort Montgomery F. D. I think you would have to go from here to California to find more fire apparatus in a 5 ½ mile radius than here. That is a positive that is not a negative. I say that as a positive, it's great.

MR. DONNERY: What you are telling me is that West Point and the Town has the capability to respond here with adequate equipment.

MR. JANNARONE: We might want to also touch on what modern fire fighting requirements are as far as extension requirements are in a hotel. Please discuss that very briefly.

MR. TITOLO: Very briefly. This hotel will have a fully activated sprinkler system. Stand pipe in the staircase. It will have a sprinkler pump that will pressurize the water coming up from Mearns Avenue. In the event there is a fire, this system will, hopefully, put out the fire prior to any trucks coming up the hill. It is a requirement and law to have a full sprinkler system in this hotel.

MR. GAFFORD: The other point is, in the structure of the building itself, there are no combustible materials. There is no wood at all.

MR. JANNARONE: Are there any other comments or questions? We have a large crowd here, but not too many questions.

MRS. GUNZA: I have a question about the water. How are you going to get water from the village water plant up to your facility?

MR. TITOLO: I have spoken with Kevin Hurst. I don't know if this is an issue related to these variances. We have spoken to Kevin Hurst and on Mearns Avenue there is an 8 inch water main. We will tap into that main. There is enough pressure to get it to the top of the hill. We will put 2 pumps in support of that water and pressurize the building with it.

MRS. GUNZA: I know on Chestnut Street often times when the water level is down, Chestnut Street, those few houses on the top, are not able to get water. Yours is going to be a little bit higher.

MR. TITOLO: No, I disagree with you Mrs. Gunza. Chestnut Street is way up there. I think that if you actually got up to Chestnut Street and you look across you will see that.

MR. GALU: What size pipe goes up Chestnut Street?

MRS. GUNZA: I really don't know.

MR. GALU: When it was dug, it was like a 2 inch line. That was years ago, and it probably hasn't changed.

MRS. GUNZA: I am just saying the height.

MR. GALU: It doesn't matter the height, it's the size of the pipe.

MR. TITOLO: Mr. Jannarone, Mr. McCarthy just came in there was a lengthy discussion about the water line. If I can, I would like to get Jack up to speed. He has the same concerns as Mr. Fatsis. Jack's property is roughly here on the other side of that inlet. (Using the drawings he explained to Mr. McCarthy what modifications have to be done to the head wall).

MR. McCARTHY: One other question. You said that you were going to have holding tanks draining off the parking lots on the roof.

MR. TITOLO: There are two large holding tanks here. We can get into the details. It is a requirement from the DEC that we do this.

MR. GETZ: There will be some concrete structures, but the main storage will be done in pipes.

MR. McCARTHY: And that is going to go into that little brook?

MR. JANNARONE: Through flow restrictors.

MR. GETZ: After leaving a small orifice. There are some 400 feet of 6 foot diameter pipes so that you have plenty of volume to store the majority of the water and release it slowly.

MR. GALU: It is like a retention pond, but it is built underground.

MR. McCARTHY: Yes, I know what they are. Right now, the hotel that is up there, all the water that is in the parking lot and on the roof now is going on 9W, am I right or wrong?

MR. GETZ: It heads out toward Route 9W, yes.

MR. McCARTHY: Is there a reason why this parking lot and this roof can't be drained to Route 9W?

MR. GETZ: Similarly to the situation back here, we are not allowed to increase the flow to Route 9W. Part of the site will continue to drain out to 9W, but we are capturing the new and pervious services and capturing the runoff from that and bringing it to that central storage and treatment area.

MR. TITOLO: Jack, just to reiterate, we cannot deliver more than the current peak flow out of the storage container into this brook as it exists now. I think that very little is draining onto 9W with the existing hotel.

MR. JANNARONE: Anyone else have any other questions or comments? At this point, we will have a motion to adjourn. We are going to adjourn the Public Hearing, we cannot vote on this issue, as discussed earlier.

At 8:04 P. M., a motion was made to adjourn the Public Hearing on this project.

Motion: Mr. Donnery Seconded: Mr. Devereaux Approved

The Public Hearing will be adjourned until the next meeting, April 21, 2014.

MR. TITOLO: Mr. Jannarone, we would like this Board to consider having two meetings in April, if it can. The decision does not have to be made now. We have a few meetings with the Planning Board and we would like to try to move. Spring is right around the corner and May is here and we would like to be in a position to start construction as soon as possible to take advantage of the weather that is coming.

MS. TERHUNE: The issue with that is that it is the Planning Board that will be the bottleneck, not the Zoning Board of Appeals. If you need additional meetings to get through the environmental review process, my suggestion is that you ask the Planning Board to do that because the ZBA is waiting on the Planning Board.

MR. JANNARONE: April 21, 2014 is our next meeting at 7:00 P. M.
Members of the Board: After discussion with the Board, does anyone see any reason for this Board to take the lead on SEQRA rather than the Planning Board?

MR. DONNERY: I would recommend that the Planning Board be the Lead Agency. Do we need a motion for that?

MR. DEVEREAUX: I agree with Tim.

MS. TERHUNE: I don't think you need a motion, you will get a Notice of Intent from the Planning Board and you will respond to the Planning Board that the Members have discussed it.

MR. DONNERY: You will pass that along to the Planning Board for us?

MS. TERHUNE: I will be happy to do that. Everyone here agrees and authorizes me to tell the Planning Board that the ZBA does not wish to be Lead Agency?

MR. JANNARONE: Yes, I think they are best qualified to handle these kinds of reviews. So much of this tonight is not in our purview. Are there any other issues to address? Thank you very much for attending and thank you to all the participants.

At 8:07 P. M., a motion was made to adjourn the meeting.

Motion: Mr. Galu Seconded: Mr. Donnery Approved

Respectfully submitted,

Fran DeWitt
Recording Secretary

**The next Consolidated Zoning Board of Appeals meeting is
April 21, 2014**